conveyor belts as to the method of pollution control that is used or is necessary to perform testing using the proposed test.

C. Combustion Toxicity

Some commenters indicated that conveyor belts passing the proposed tests would present more of a toxic hazard than conveyor belts meeting the present MSHA acceptance test. MSHA requests any information or data from manufacturers and other parties on the comparison or assessment of the combustion toxicity of conveyor belts meeting the present acceptance test and belts meeting the proposed test.

D. Quality Assurance

Commenters also questioned the proposal regarding the quality assurance (control) program for maintaining conveyor belt as approved. One commenter suggested that inspection of ingredients alone could not ensure that conveyor belting is manufactured as approved, suggesting that a flame test is needed for this assurance. MSHA requests information on the current practices manufacturers use in their quality control programs to maintain a product as approved. MSHA is particularly interested in whether manufacturers flame test belts using the MSHA acceptance test indicated in 30 CFR 18.65, inspect or control ingredients, or perform a combination of both.

E. Cost Data

Commenters provided a range of data on the financial impact of the proposed rule, which included costs of belting passing the proposed flame test (''new'' belt), total dollar amount of the conveyor belt market, and belt service life information. MSHA solicits comments and data on the economic impact to all belt manufacturers and all underground coal mines, including small manufacturers and small mine operators. In particular, MSHA requests information for both rubber and PVC types of conveyor belt on: (1) the quantity of belt (in feet or meters) currently in use that would pass the proposed test; (2) the total quantity (in feet or meters) and dollar amount of the market for conveyor belt used in underground coal mines; (3) the cost of belt that will pass the proposed flame test (''new'' belt) versus belt that passes the current MSHA flame test (''old'' belt); (4) whether costs of the ''new'' belt will decline as production increases and by how much; and (5) the life and warranty of ''new'' belt versus ''old'' belt.

Some manufacturers and other parties have installed the proposed MSHA test apparatus to conduct research and testing on samples of conveyor belts. MSHA also requests information from interested parties on the research and development costs for conveyor belt meeting the new test.

Dated: March 27, 1995.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 95–8018 Filed 3–30–95; 8:45 am]

BILLING CODE 4510–43–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN32–1–6006; FRL–5180–8]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve State Implementation Plan (SIP) revision request submitted by the State of Indiana for the purpose of bringing about the attainment of the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM). The SIP revision request was submitted by the State to satisfy certain Federal requirements for an approvable nonattainment area PM SIP for the Lake County nonattainment area. This area was designated nonattainment for PM and classified as moderate by the Clean Air Act (Act), upon enactment of the 1990 Amendments (amended Act). The amended Act requires that States make plan submittals by November 15, 1991, for those areas designated nonattainment and classified as moderate for PM upon enactment (the ''initial moderate nonattainment areas'').

DATES: Comments on this SIP revision request and on USEPA's proposed rulemaking action must be received by May 1, 1995.

ADDRESSES: Written comments should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Regulation Development Branch, Regulation Development Section (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–3299.

SUPPLEMENTARY INFORMATION:

I. Background

The air quality planning requirements for moderate PM nonattainment areas are set out in Title I of the amended Act.[1] The USEPA has issued a ''General Preamble'' describing USEPA's preliminary views on how USEPA intends to review SIPs and SIP revisions submitted under Title I of the amended Act, including those State submittals containing moderate PM nonattainment area SIP requirements (see generally 57 FR 13498, April 16, 1992). The reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in this proposed rule and the supporting rationale. In this proposed rule on the Indiana moderate PM SIP submittal for the Lake County nonattainment area, USEPA is proposing to apply the interpretations as expressed in the General Preamble, taking into consideration the special factual issues presented.

Part D of Title I contains the provisions applicable to nonattainment areas. Moderate PM nonattainment areas must meet the applicable requirements set out in Subparts 1 (sections 171–179B of the Act) and 4 (sections 188–190 of the Act) of Part D. Subpart 1 contains provisions generally applicable to all nonattainment areas and Subpart 4 contains provisions specifically applicable to PM nonattainment areas. At times, Subparts 1 and 4 overlap or conflict. USEPA has attempted to clarify the relationship among these various provisions in the General Preamble and, as appropriate, in this proposed rule.

Under Part D, those States containing initial moderate PM nonattainment areas were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology—RACT) shall be implemented;

[1] The 1990 Amendments to the Act made significant changes to the air quality planning requirements for areas that do not meet (or that significantly contribute to ambient air quality in a nearby area that does not meet) the PM national ambient air quality standards (see Pub. L. No. 101–549, 104 Stat. 2399). References herein are to the Clean Air Act, as amended, 42 U.S.C. 7401 et seq.

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Control requirements applicable to major stationary sources of PM precursors, except where the Administrator determines that such sources do not contribute significantly to PM levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

II. Analysis of State Submittal

Section 110(k) of the Act sets out provisions governing USEPA's review of SIP submittals (see 57 FR 13565–13566). In this proposed rule, USEPA is proposing to approve the SIP revision request submitted to USEPA on June 16, 1993, and supplemented on December 9, 1993, September 8, 1994, and November 17, 1994, for the Lake County nonattainment area. The submittal repeals rules 326 Indiana Administrative Code (IAC) 5–1–6, 6–1–10, and 6–1–11. The submittal contains the following new or revised rules:

326 IAC 1–2–32.1* ..	''Gooseneck cap'' definition
326 IAC 1–2–34.1* ..	''Jumper pipe'' definition
326 IAC 1–2–62.1* ..	''Quench car'' definition
326 IAC 1–2–63.1* ..	''Quench reservoir'' definition
326 IAC 1–2–63.2* ..	''Quench tower'' definition
326 IAC 5–1–1*	Applicability of rule
326 IAC 5–1–2*	Visible emission limitations
326 IAC 5–1–3*	Temporary exemptions
326 IAC 5–1–4*	Compliance determination
326 IAC 5–1–5*	Violations
326 IAC 5–1–7*	State implementation plan revisions
326 IAC 6–1–10.1(a–k).	Lake County PM10 emissions requirements
326 IAC 6–1–10.2	Lake County PM10 coke battery emissions requirements
326 IAC 6–1–11.1	Lake County fugitive particulate matter control requirements
326 IAC 11–3–2(a–f and i)*.	Emission limitations
326 IAC 11–3–4*	Compliance determination

While some of these rules apply strictly to Lake County, others (marked above with an asterisk) are intended to have state-wide applicability. The USEPA is proposing to approve the rules marked above with an asterisk for the entire state of Indiana. The others are being approved for sources in Lake County only.

Public comments are solicited on the requested SIP revision and on USEPA's proposed rulemaking action. The USEPA will consider any comments received during the public comment period before taking final action on the requested SIP revision. Presented below are the SIP requirements under which the submittal was reviewed, and the results of USEPA's review.

1. Procedural Requirements

The Act requires States to observe certain procedural requirements in developing implementation plans for submission to USEPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[2]

The USEPA also must determine whether a submittal is complete and therefore warrants further USEPA review and action (see section 110(k)(1) and 57 FR 13565). The USEPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The USEPA attempts to make completeness determinations within 60 days of receiving a submittal. However, a submittal is deemed complete by operation of law if a completeness determination is not made by USEPA 6 months after receipt of the submission.

The State of Indiana held a public hearing on October 22, 1992, in Gary, Indiana to receive public comment on the requested implementation plan revision for the Lake County PM nonattainment area. Following the public hearing the plan was adopted by the State on May 12, 1993, and submitted to USEPA on June 16, 1993, as a SIP revision request. Supplemental submittals were made with cover letters dated December 9, 1993, September 8, 1994, and November 17, 1994.

The SIP revision request was reviewed by USEPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittal was found to be complete and a letter dated July 13, 1993, was sent to the Commissioner, Office of Air Management, Indiana Department of Environmental Management (IDEM), indicating the completeness of the submittal and the next steps to be taken in the review process.

2. Accurate Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Further, for the attainment demonstration, the SIP must contain a comprehensive, accurate, and current inventory of allowable emissions in the area. Because the submission of an emissions inventory is necessary to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emissions inventory must be received with the submission (see 57 FR 13539).

The emissions inventory information was compiled from data supplied by individual companies, permit applications in the IDEM files, and information from personnel at local agencies. The emissions inventory contains information on approximately 900 point and area sources. The Lake County PM emissions inventory is dominated by industrial sources, including metal manufacturers, mineral product manufacturers, and food/agricultural facilities. For further information on the emissions inventory, see the Technical Support Document available at the above address.

The USEPA is proposing to approve the emissions inventory because it is generally accurate and comprehensive, and provides a sufficient basis for determining the adequacy of attainment demonstration for this area consistent with the requirements of sections 172(c)(3) and 110(a)(2)(k) of the Act.

3. RACM (Including RACT)

As noted above, the State must submit provisions for initial moderate PM nonattainment areas to assure that RACM (including RACT) are implemented (see sections 172(c)(1) and 189(a)(1)(C)). The General Preamble contains a detailed discussion of USEPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539–13545 and 13560–13561). The USEPA's interpretation of this requirement is set out here only in broad terms.

The State should first identify available control measures and evaluate them for their reasonableness in light of the feasibility of the controls and the

[2] Also, Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of Section 110(a)(2).

attainment needs of the area. A State may reject an available control measure if the measure is technologically infeasible or the cost of the control is unreasonable. The State must demonstrate attainment of the NAAQS as expeditiously as practicable but no later than December 31, 1994, unless the State demonstrates that attainment by that date is impracticable. Therefore, if a State adopts less than all available measures but demonstrates, adequately and appropriately, that RFP and attainment of the PM NAAQS is assured, and application of all such available measures would not result in attainment any faster, then a plan which requires implementation of less than all available measures may be approved as meeting the RACM requirement. As a suggested starting point, USEPA has identified reasonably available control measures for sources of fugitive dust, residential wood combustion, and prescribed burning (see 57 FR 18072–18074, April 28, 1992). The State should add to the list of available measures in an area any measures that public commenters demonstrate may well be reasonably available in a particular circumstance.

The RACT for a particular source is similarly determined. The USEPA's longstanding definition of RACT is the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (see 57 FR 13541). Thus, USEPA recommends that available control technology be applied to those existing sources in the area that are reasonable to control in light of the attainment needs of the area and the feasibility of controls.[3]

A State should submit a reasoned justification for partial or full rejection of any available control measure (including any available control technology) that explains, with appropriate documentation, why each rejected control measure is infeasible or otherwise unreasonable and, therefore, does not constitute RACM (or RACT) for the area. In those PM nonattainment areas where mobile sources significantly contribute to the PM air quality problem, States also must address the section 108(f) transportation control measures (see 57 FR 13561).

The limitations on point sources in Lake County include source-specific emissions limits in terms of pounds per ton (lb/ton), pounds per hour (lbs/hr), pounds per Million British Thermal Units (lb/MMBTU), and grains per dry standard cubic foot (gr/dscf). There are also source-specific opacity limits ranging from 5–20 percent on certain sources in the nonattainment area. These limits are listed in Title 326 Indiana Administrative Code (326 IAC) 6–1–10.1. Compliance with these emissions limits is to be determined using Title 40 of the Code of Federal Regulations, part 60 (40 CFR part 60), appendix M, Methods 201 and 201A for PM; 40 CFR part 60, appendix A, Methods 5, 5A, 5D, 5E or 17 for Total Suspended Particulate; and 40 CFR part 60, appendix A, Method 9 for opacity limits. Other limitations on point sources include emission limits on coke ovens located in Lake County (326 IAC 6–1–10.2) and a general 20 percent opacity limit for all sources in the nonattainment area (326 IAC 5–1–2).

Limitations on sources of fugitive emissions in Lake County include a 10 percent opacity limit for paved roads and parking lots, unpaved roads and parking lots, and wind erosion from storage piles (326 IAC 6–1–11.1(d)). Subsection (e) of this rule also requires sources to submit control plans which will achieve compliance with the limitations of subsection (d). These plans are to include maps and descriptions of facilities, descriptions of the proposed control measures and practices to be implemented, and a schedule for achieving compliance with the rule.

The USEPA has reviewed the State's explanation and associated documentation and concluded that it adequately justifies the control measures to be implemented. By this notice, USEPA is proposing to approve the control strategy.

4. Attainment Demonstration

As noted above, the State must submit a demonstration for initial moderate PM nonattainment areas (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 (see section 189(a)(1)(B) of the Act). Alternatively, the State must show that attainment by December 31, 1994 is impracticable. In the General Preamble, USEPA indicated that the attainment demonstrations for the initial moderate areas must follow existing modeling guidelines for PM or, if appropriate, may be developed consistent with the supplemental attainment demonstration policy issued for initial areas (see 57 FR 13539).

IDEM began the Lake County modeling study in 1989, using version 88348 of the Industrial Source Complex Short Term model (ISCST). An updated version of ISCST, 90346, was used for the final runs. Version 93109 of the Industrial Source Complex Long Term model (ISCLT2) was used to determine annual average concentrations. Version 93109 is the most recent version of ISCLT2, and the versions of ISCST used by the State were current at the time of application. Therefore, their use is approvable by USEPA. Future SIP revision requests submitted to USEPA must demonstrate attainment of the NAAQS through modeling performed in accordance with current USEPA modeling guidance.

IDEM modeled a total of 540 sources, all with emissions greater than one ton per year. Smaller sources were excluded from the modeling. Direction-specific building dimensions were input for facilities which chose to provide the information. The annual concentrations modeled represent the actual hours of operation of sources which contributed significantly to high annual concentrations.

Average background concentrations for each wind sector were derived from measurements taken at ten local PM monitors during the years 1990 through 1992. The monitors were located in Lake County, Indiana; Porter County, Indiana; and Cook County, Illinois. While the background concentrations were developed so as not to include measurements directly influenced by the emissions from large facilities, monitors within the modeled area were expected to account for the influence of small sources which were not included in the modeled source inventory. IDEM arrived at an average annual background concentration of 23 micrograms per cubic meter ($\mu g/m^3$).

IDEM ran the models with five years of meteorological data (1984–1988) from the Hammond and Whiting Towers, which are located in Lake County. IDEM's final receptor network focused on hot spots pinpointed by earlier modeling runs. Receptors were also placed in Illinois in order to assess interstate impacts. Modeling showed that the Indiana sources did not violate the NAAQS in Illinois.

The final modeling shows that the Lake County PM nonattainment area will attain the 24-hour PM standard. The highest sixth high predicted 24-hour concentration is 149.9 $\mu g/m^3$ (the 24-hour PM standard is 150 $\mu g/m^3$). The final modeling also predicts attainment of the annual PM standard. The highest 5-year average predicted PM concentration is 47.7 $\mu g/m^3$ (the standard is 50 $\mu g/m^3$).

[3] USEPA has issued technological and economic parameters that should be considered in determining RACT for a particular source (see 57 FR 18073–74).

To have attained the PM NAAQS, an area must have an average of no more than 1.0 expected exceedance of the 24-hour PM NAAQS per year for the previous 3 years at any monitor. In addition, the average of the annual PM concentrations for the previous 3 years at any monitor must be below the annual standard.

A preliminary review of the Lake County air quality monitoring data indicates that the area is attaining the PM NAAQS. No monitor in the Lake County area has shown an exceedance of the annual PM NAAQS in the last 3 years. In addition, the worst-case monitor in the Lake County PM nonattainment area shows an average of 0.75 expected exceedance per year for 1992, 1993, and 1994. The USEPA will make a formal determination of the attainment status of the Lake County PM nonattainment area at a later date.

5. PM Precursors

The control requirements which are applicable to major stationary sources of PM must also apply to major stationary sources of PM precursors unless the USEPA determines such sources do not contribute significantly to PM levels which exceed the National Ambient Air Quality Standards in that area (see section 189(e) of the Act). PM precursors are pollutants emitted as gases that undergo chemical transformations to become particulate, and principally include sulfates and nitrates. The control requirements that apply to major stationary sources in PM nonattainment areas generally include the following: reasonably available control technology, which applies in moderate PM nonattainment areas; best available control technology, which applies in serious PM nonattainment areas; and control requirements under the applicable new source review provisions, such as the lowest achievable emission rate. The General Preamble (see 57 FR 13539–13540 and 13541–13542) contains a lengthy discussion on control requirements for PM precursors in moderate nonattainment areas and on the type of technical information USEPA will rely on in making any determinations under section 189(e).

Filter analysis data from ambient monitors in Cook County, Illinois (the data was collected in 1992) were used to assess the significance of PM precursors in the Lake County, Indiana PM nonattainment area. The monitors used are located at the Washington School and the Bright School in the city of Chicago, Illinois. These monitors are located approximately .6 and 1.75 miles, respectively, west of the Lake County nonattainment area. Besides the close proximity, these sites are also appropriate because the source mix in southeast Chicago closely approximates that of the Lake County nonattainment area.

The mean sulfate concentration plus the mean nitrate concentration for the Washington school and Bright school monitors were 13.1$\mu g/m^3$ and 14.9$\mu g/m^3$ respectively. This compares to an average annual background PM concentration of 23$\mu g/m^3$ in the Lake County nonattainment area. This illustrates the relative insignificance of the impact of PM precursors, and supports representing PM precursor impacts as part of the background concentration.

Further considerations also argue against applying the same control requirements for precursor sources as for direct emission sources. The climatology in northwest Indiana is such that precursor emission control for a particular source would not have a significant effect until far downwind. Title IV of the Clean Air Act mandates significant particulate precursor emission reductions in Indiana, after which the impacts of these sources on particulate matter concentrations will be even less significant.

For these reasons, it is appropriate to conclude that precursors do not contribute significantly to particulate matter concentrations in the Lake County nonattainment area. This finding is based on the current character of the area including, for example, the existing mix of sources in the area. It is possible, therefore, that future growth could change the significance of precursors in the area. The USEPA intends to issue future guidance addressing such potential changes in the significance of precursor emissions in an area.

6. Quantitative Milestones and Reasonable Further Progress (RFP)

The PM nonattainment area plan revisions demonstrating attainment must contain quantitative milestones, which are to be achieved every 3 years, until the area is redesignated to attainment. The plan also must demonstrate RFP, as defined in section 171(1), toward attainment by December 31, 1994 (see section 189(c) of the Act). Reasonable further progress is defined in section 171(1) as such annual incremental reductions in emissions of the relevant air pollutant as are required by part D or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.

For the initial moderate PM nonattainment areas, the emissions reductions progress made between the SIP submittal due date of November 15, 1991 and the attainment date of December 31, 1994, (only 46 days beyond the November 15, 1994 milestone date) will satisfy the first milestone requirement. The *de minimis* timing differential makes it administratively impracticable to require separate milestone and attainment demonstrations.

In implementing RFP for an initial moderate area, USEPA has reviewed the attainment demonstration and control strategy for the area to determine whether the initial milestones have been satisfied, and to determine whether annual incremental reductions different from those provided in the SIP may be necessary to ensure attainment of the PM NAAQS by December 31, 1994 (see section 171(1)). As indicated, Indiana's PM SIP submittal for the Lake County PM nonattainment area shows that the PM NAAQS will be attained by December 31, 1994. Also, a preliminary review of the monitored air quality data shows that the area is in attainment of the PM NAAQS. Therefore, the RFP requirement has been satisfied.

7. Enforceability

All measures and other elements in the SIP must be enforceable by the State and USEPA. See sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556. The USEPA criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from the Assistant Administrator for Air and Radiation, et al., entitled ''Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency,'' and with an attached memorandum with the same date and title which contained more detailed guidance from the Associate Enforcement Counsel for Air Enforcement, *et al.* (see 57 FR 13541).

The particular control measures contained in the SIP are addressed above under the section headed ''RACM (including RACT).'' These control measures apply to the types of activities identified in that discussion, including, for example, grain loading limits, lb/ton limits, and lb/MMBTU limits for point sources and opacity limits for roadways and storage piles. The SIP provides that these control measures apply to the Lake County nonattainment area.

Upon initial review of Indiana's submittal, USEPA identified two enforcement concerns. The first enforcement concern was related to the 20 percent opacity limit as it applies to

coal preheater bypass stacks at U.S. Steel. A number of years ago, Indiana issued a variance to these stacks under a previous State rule. The USEPA requested IDEM's interpretation of how the variance relates to the new rule. On November 17, 1994, IDEM submitted to USEPA a letter clarifying this issue. In the letter, IDEM stated that ''no variance currently exists for the U.S. Steel. Any variance from a previous, repealed rule that existed prior to the adoption of 326 IAC 5–1–2(2)(B) has been superseded by the revised PM rule.'' Therefore, this issue has been resolved.

The second enforcement concern was related to the shutdown of the A. Metz Asphalt Company in Gary, Indiana. IDEM did not include this source in the emissions inventory because it is not currently operating, but the plant still has a limit in the State rules. The USEPA was concerned about the enforceability of the shutdown, and the possibility that the plant might resume operation. In a November 17, 1994, letter, IDEM assured USEPA that the A. Metz Asphalt Company has not operated since 1989, and does not have a valid operating permit. IDEM stated that restarting of operations at this plant would trigger Indiana's new source review permitting process. Therefore, this issue has been resolved.

8. Contingency Measures

As provided in section 172(c)(9) of the Act, all moderate nonattainment area SIPs that demonstrate attainment must include contingency measures. See generally 57 FR 13543–13544. Contingency measures should consist of other available measures that are not part of the area's control strategy. These measures were to have been submitted by November 15, 1993, for initial moderate nonattainment areas. These measures must take effect without further action by the State or USEPA, upon a determination by USEPA that the area has failed to make RFP or attain the PM NAAQS by the applicable statutory deadline.

On January 25, 1994, a letter was sent to the State indicating that the USEPA was making a finding that the State of Indiana had failed to submit PM contingency measures for the Lake County PM nonattainment area. The letter also stated that Indiana would have 18 months from the date of the letter to make a complete submission of PM contingency measures before USEPA would be mandated to impose sanctions as identified in section 179(b) of the amended Act. The USEPA is currently working with IDEM to develop the required PM contingency measures. The USEPA will take separate rulemaking action on the contingency plan for the Lake County nonattainment area.

III. USEPA's Proposed Rulemaking Action

USEPA is proposing to approve the plan revision submitted to USEPA by the State of Indiana on June 16, 1993, and supplemented on December 9, 1993, September 8, 1994, and November 17, 1994, for the Lake County PM nonattainment area. Among other things, the State of Indiana has demonstrated through modeling that the Lake County moderate PM nonattainment area will attain the PM NAAQS by December 31, 1994. In addition, a preliminary review of the monitored air quality data for the Lake County area shows that this area is in attainment of the NAAQS.

As noted, additional submittals for the initial moderate PM nonattainment areas are due at later dates. The USEPA will determine the adequacy of any such submittals as appropriate.

USEPA is requesting comments on the requested SIP revision and this proposed rule. As indicated at the outset of this dowment, USEPA will consider any comments received by May 1, 1995.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. See *Union Electric Co.* v. *U.S. E.P.A.* , 427

U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 21, 1995.

Valdas V. Adamkus,

Regional Administrator.

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